

United States District Court
for the
Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 26, 2024

SEAN F. McAVOY, CLERK

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Mariela Del Rosario Penaloza Case Number: 0980 1:22CR02032-SAB-1

Address of Offender: [REDACTED] Selah, Washington 98942

Name of Sentencing Judicial Officer: The Honorable Timothy S. Black, U.S. District Judge

Name of Supervising Judicial Officer: The Honorable Stanley A. Bastian, Chief U.S. District Judge

Date of Original Sentence: October 30, 2020

Original Offense: Conspiracy to Possess With Intent to Distribute Fentanyl & Heroin
21 U.S.C. §§ 841(a)(1), (b)(1)(C), and 846

Original Sentence: Prison - 36 months Type of Supervision: Supervised Release
TSR - 60 months

Revocation Sentence:

(07/22/2024) Prison - Time Served (27 days)
TSR - 36 months

Asst. U.S. Attorney: Michael Davis Murphy Date Supervision Commenced: July 22, 2024

Defense Attorney: Alex B. Hernandez, III Date Supervision Expires: July 21, 2027

PETITIONING THE COURT

To issue a warrant.

On July 25, 2024, supervised release conditions were reviewed and signed by Ms. Penaloza, acknowledging her understanding of her conditions.

The probation officer believes that the offender has violated the following conditions of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1	Special Condition #2: You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.
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Supporting Evidence: Ms. Penaloza is alleged to have violated her supervised release conditions by failing to submit to a random urinalysis (UA) at Merit Resource Services (Merit) on August 7, and 20, 2024.

On July 25, 2024, Ms. Penaloza reviewed the Eastern District of Washington substance abuse testing instructions, acknowledging her understanding of the drug testing program. She was instructed to call Merit's federal colorline system beginning August 2, 2024, and when her assigned color was called, she was to report and submit a UA.

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On August 8, 2024, Merit reported to the United States Probation Office that Ms. Penalosa failed to report and submit to a UA on August 7, 2024.

On August 12, 2024, after this officer confronted Ms. Penalosa for failing to comply with her substance abuse testing instructions, Ms. Penalosa expressed to this officer that she checked the colorline after hours, sometime after 8 p.m.

On August 21, 2024, Merit reported to the United States Probation Office that Ms. Penalosa failed to report and submit to a UA on August 20, 2024.

- 2 **Special Condition #2:** You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.

Supporting Evidence: Ms. Penalosa is alleged to have violated her supervised release conditions by consuming alcohol on or about August 1, 2024.

On August 12, 2024, during a conversation with Ms. Penalosa, the offender expressed to this officer that she consumed alcohol on or about August 1, 2024.

- 3 **Standard Condition #2:** After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.

Supporting Evidence: Ms. Penalosa is alleged to have violated her supervised release conditions by failing to report to this officer by telephone on August 12, 2024.

On August 12, 2024, during a conversation with Ms. Penalosa, this officer instructed the offender to reschedule her no showed assessment results appointment and check-in with this officer by telephone later this same date. The offender verbalized an understanding. On this same date, Ms. Penalosa failed to reschedule her appointment with Merit and failed to report to this officer as instructed.

On August 13, 2024, this officer made telephonic contact with Ms. Penalosa. The offender acknowledged failing to reschedule her results appointment at Merit and failing to call this officer as instructed on August 12, 2024.

- 4 **Special Condition #1:** You must undergo a substance abuse evaluation and, if indicated by a licensed/certified treatment provider, enter into and successfully complete an approved substance abuse treatment program, which could include inpatient treatment and aftercare upon further order of the court. You must contribute to the cost of treatment according to your ability to pay. You must allow full reciprocal disclosure between the supervising officer and treatment provider.

Supporting Evidence: Ms. Penalosa is alleged to have violated her supervised release conditions by failing to enter and complete Merit's recommended substance abuse treatment program for inpatient treatment recommended on August 14, 2024.

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On August 1, 2024, Ms. Penalosa reported to Merit for a substance abuse assessment. On August 14, 2024, Merit finalized Ms. Penalosa's substance abuse assessment and recommended she enter and complete an intensive inpatient treatment program.

On August 15, 2024, Ms. Penalosa met with Merit and reviewed her substance abuse assessment results completed on August 1, 2024. On this same date, Merit informed Ms. Penalosa of the recommended treatment program for inpatient treatment.

On August 16, 2024, Ms. Penalosa made telephonic contact with this officer and expressed she is not willing to comply with her substance abuse treatment recommendation for inpatient treatment. She further expressed she is not interested in treatment, is not ready to change, and "...just wants to have fun."

On August 20, 2024, during a home contact, Ms. Penalosa again expressed to this officer that she is not interested in treatment.

On August 22, 2024, during a telephonic conversation with Merit, Merit expressed to this officer that Ms. Penalosa refused to comply with the recommended inpatient treatment recommendation. Merit further expressed they have not heard from the offender since her results appointment on August 15, 2024.

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Special Condition #2: You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.

Supporting Evidence: Ms. Penalosa is alleged to have violated her supervised release conditions by consuming alcohol on or about August 17, through 21, 2024.

On August 20, 2024, during a home contact with Ms. Penalosa, it was apparent she was under the influence of drugs or alcohol. Ms. Penalosa was very emotional during this contact and kept repeating she had refused to open the door earlier that same date because she was heartbroken. During the contact, Ms. Penalosa would cry, laugh, and get angry. Inside the residence, several open alcoholic beverages were observed in the living room, kitchen, and Ms. Penalosa's bedroom. The offender expressed to this officer that she consumed alcohol on or about August 17 through 20, 2024. It should be noted, United States Probation Officer (USPO) Casey and USPO Mowatt were also present during this contact.

On August 23, 2024, during a telephonic conversation, Ms. Penalosa admitted to consuming alcohol on August 21, 2024.

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Standard Condition #2: After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.

Supporting Evidence: Ms. Penalosa is alleged to have violated her supervised release conditions by failing report to the probation office on August 21, 2024.

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On August 20, 2024, during a home contact with Penalosa, this officer instructed the offender to report to the probation office on August 21, 2024, at 8 a.m. Ms. Penalosa verbalized an understanding. It should be noted, Ms. Penalosa's mother later arrived to the residence and she was also informed of the offender's reporting instructions.

On August 21, 2024, Ms. Penalosa did not report to the probation office as instructed. Instead, approximately 40 minutes after her appointment, Ms. Penalosa called this officer emotional and refusing to report to the probation office. The offender expressed she was "hungover" and "puking" because she had been drinking since the weekend (approximately August 17, 2024 through August 20, 2024). Ms. Penalosa further expressed she did not have a ride, her mom had her car keys, and her UA would be "dirty."

Ms. Penalosa attempted to negotiate when she would report to the probation office, but ultimately agreed to report at 9:30 a.m. on this same date. Unfortunately, Ms. Penalosa failed to report to the probation office as instructed on August 21, 2024; and she did not make any attempts to contact the probation office.

The U.S. Probation Office respectfully recommends the Court issue a warrant requiring the offender to appear to answer to the allegations contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 26, 2024

s/Araceli Mendoza

Araceli Mendoza
U.S. Probation Officer

THE COURT ORDERS

- No Action
- The Issuance of a Warrant
- The Issuance of a Summons
- Other



Signature of Judicial Officer

8/26/2024

Date